2031.

SUPREME COURT OF THE UNITED STATES.

No. 92.

THE UNITED STATES, APPELLANT,

VERSUS

GEORGE J. F. CLARKE.

APPEAL FROM THE SUPERIOR COURT OF EAST FLORIDA.

INDEX.

	Original.	Print.
Petition for confirmation of claim, from	1 to 5	2
Answer of United States' attorney, from	5 to 13	4
Exhibit A, annexed to said answer	13 to 14	6
Replication of claimant	14	7
Documents offered by claimants—		
No. 1. Memorial of Clarke to Spanish Government for grant, from	15 to 17	8
Grant to Clarke for 16,000 acres, from	17	8
No. 2. Royal title to Clarke for 16,000 acres, from	18 to 20	9
No. 3. Memorial of Clarke for, and order of survey, from	20 to 21	10
No. 4. Memorial for and order to remove part of survey, from	21 to 22	10
Document offered by United States—		
Memorial of Clarke for grant of 4,000 acres, and grant for the same, from	23 to 25	14
Testimony of witnesses on behalf of United States—		
No. 1. Commission to examine B. Chaires, from	25 to 28	15
Interrogatories to B. Chaires, from	28 to 30	16
Cross-interrogatories to B. Chaires, from	30 to 32	17
Answers of B. Chaires to interrogatories, from	32 to 34	18
Answers of B. Chaires to cross-interrogatories, from	34 to 37	19
No. 2. Interrogatories to Anto. Alvarez, from	38 to 39	20
Answers of Anto. Alvarez, from	39 to 40	21
No. 3. Interrogatories to J. L. Williams, from	40 to 41	21
Answers of J. L. Williams, from	41 to 42	22
Decree of confirmation, from	42 to 47	22
Appeal to Supreme Court, from	47 to 48	24
Revival of appeal, from	48 to 49	24
Citation of appeal and return	49 to 50	25

Before the honorable the judge of the superior court for the eastern district of Florida, and specially authorized by law to receive and adjudicate claims and titles to land in the district of East Florida: Be it remembered, that, on the fourth day of April, in the year of our Lord one thousand eight hundred and twenty-nine, George J. F. Clarke, by Joseph B. Lancaster, his attorney, brought and filed in the clerk's office of the superior court for the eastern district of Florida his petition or claim to certain land therein mentioned; which said petition or claim is in the words and figures following, to wit:

PETITION FOR CONFIRMATION.

TERRITORY OF FLORIDA,
Eastern District, Superior Court, } *set.:*

To the honorable the judge of the superior court for the district and Territory aforesaid, in chancery sitting:

The petition of George J F. Clarke, a native and inhabitant of the aforesaid Territory, respectfully showeth—

That, upon the sixth day of April, in the year of our Lord, 1816, Don Jose Coppinger, then acting governor of the province of East Florida, (by virtue of authority derived from the Spanish Government,) actually made to your petitioner, an absolute title in fee, of five miles square of land, which your petitioner avers amounts to the number of sixteen thousand acres, on the west side of St. John's river, near and at Black creek, and at a place called White Spring, for, and in consideration of your petitioner having actually (before the day of the date of said grant,) constructed a saw mill, to be impelled by animal power, which sufficiently appeared by proof to the said governor, as is fully evinced by the tenor of the grant aforesaid, and as a reward for the industry and ingenuity of your petitioner in the constructing of the aforesaid saw mill, and for other causes and considerations in said grant set forth, all of which will more fully appear by reference to said grant, a certified translation whereof will in due time be filed herewith, and exhibited to this honorable court, and marked exhibit No. 1, and prayed to be made a part hereof.

Your petitioner further showeth, that, finding there was not vacant land at the place aforesaid suiting his wishes, sufficient to make the amount or number of acres aforesaid granted to him, he did, on the twenty-fifth day of January, 1819, file a memorial before the aforesaid Governor Coppinger, praying to be allowed to survey eight thousand acres of said grant on other vacant lands; and that, by a decree or grant of the aforesaid Governor Don Jose Coppinger, bearing date on the twenty-fifth day of January, 1819, the prayer of your petitioner was accorded to him, as will fully and at large appear by reference to a translation of a document herewith filed, marked exhibit No. 2.

Your petitioner further states that, in pursuance of, and in accordance with, the grant first before referred to, and the subsequent grant amendatory thereto, the said lands were surveyed to him in three surveys: one of eight thousand acres at the place in the original grant named, on the west shore of St. John's river, beginning at a stake at Picolata ferry landing, and running S. 82° W. 110 chains, to a pine; 2d line, N. 15° W. 123 chains, to a pine: 3d line, N. 5° E. 123 chains, to a pine; 4th line, N. 35° W. 175 chains, to a pine; 5th line, N. 82° W. 154 chains, to a pine; 6th line, N. 60° W. 174

chains, to a pine; 7th line, N. 25° E. 112 chains, to a stake on the south side of Buckley creek at the mouth, and thence with the meanders of St. John's river to the beginning. One other survey of three thousand acres, situated in and about Cone's hammock, to the south of Mizzell's, or Orange lake, beginning at a stake, and running thence, S. 70° E. 163 chains 92 links, to a pine; 2d line, S. 20° W. 122 chains 50 links, to a hickory; 3d line, N. 70° W. 122 chains 50 links, to a red bay; 4th line, N. 58° W. 144 chains, to a pine; 5th line, N. 20° E 90 chains 71 links, to the beginning: and one other survey of five thousand acres, situated in Lang's hammock, on the south side of Mizzell's or Orange lake—plats and certificates of all which surveys will in due time be filed and exhibited herein;—the lands herein designated all being and lying within the jurisdiction of this court.

Your petitioner further states that his aforesaid claim was filed before the board of commissioners appointed to ascertain claims and titles to lands in East Florida, who, as he is informed and believes, have refused to recommend the same to the favorable notice of the United States' Government; and have rejected the same, but have not reported it forged or antedated. But your petitioner is advised and believes, and alleges and avers, that, by and under the usages, customs, laws, and ordinances of the King of Spain, he is entitled to, and invested with, a complete and full title, in fee simple, to the lands so as aforesaid granted to him; and that, by the treaty between Spain and the United States of the 22d February, 1819, the United States are bound to recognize and confirm to him his aforesaid title in as full and ample a manner as he had or held the same under the Spanish Government. Without this, as far as your petitioner is advised, the United States are the rightful claimants to said lands.

And your petitioner prays, in consideration of the premises, that this honorable court will take jurisdiction of this his petition, and that a copy hereof, and a citation to show cause, &c. may be served on Thomas Douglass, esquire, United States' district attorney for this district, pursuant to the provisions of the statute in such cases made and provided; and, finally, that your honor will decree to your petitioner a confirmation of his title to the lands in this his petition claimed, and all such further and other relief as in equity he is entitled to; and your petitioner, as in duty, &c.

JOS. B. LANCASTER,
Att'y for George J. F. Clarke.

A copy of the foregoing petition, with a citation thereto annexed, was delivered to the marshal of this district, to serve on the attorney of the United States for the same district; and the return of the said marshal thereon is in the words and figures following, to wit: "Executed 21st April, 1829, by serving copy on Thos. Douglass, esquire, U. States' attorney."

WATERS SMITH, *Marshal.*

And afterwards, to wit, on the second day of May, in the year of our Lord one thousand eight hundred and twenty-nine, Thomas Douglass, esquire, United States' attorney for the district of East Florida, brought and filed in the clerk's office aforesaid his answer to the said petition, together with the exhibit thereto annexed; which said answer and exhibit are in the words and figures following, to wit:

ANSWER OF UNITED STATES' ATTORNEY.

Superior Court, May Term, 1829:

THE UNITED STATES OF AMERICA }
ats. }
GEORGE J. F. CLARKE. }

The answer of Thomas Douglass, United States' attorney for the district of East Florida, to the petition or bill of complaint of George J. F. Clarke:

The said attorney, in the name and for and on behalf of the same United States, saving and reserving to them now, and at all times hereafter, all and all manner of benefit of exception to the manifold errors, defects and irregularities in the said petition or bill of complaint mentioned, for answer thereunto, or unto so much thereof as it is material and necessary to answer unto, answereth and saith, that he has no knowledge of any such grant of lands having been made by Don Jose Coppinger, acting governor of the province of East Florida, on the sixth day of April, in the year of our Lord 1816, (or at any other time) to the said George J. F. Clarke, for sixteen thousand acres of land on the west side of St. John's river, near and at Black creek, and at a place called White Spring, as is alleged, stated, and described in the said petition or bill of complaint; or whether (if any such grant was made as is alleged therein) there was a defficiency of vacant land at the place aforesaid, so that the said George J. F. Clarke could not have located the said sixteen thousand acres at said place, or of the memorial which the said George J. F. Clarke, in his said petition or bill of complaint asserts, that he, on the 25th day of January, 1819, filed before the aforesaid Governor Coppinger, praying to be allowed to survey eight thousand acres of said grant on other vacant lands, or of the decree alleged by the said George J. F. Clarke in the said petition or bill of complaint to have been made by the said Don Jose Coppinger, bearing date on the day and year last aforesaid, by which it is alleged that the prayer of the said petitioner was accorded to him; or of the making of the several surveys in the said petition mentioned and described, this respondent has no knowledge except what he has derived from a perusal of the petition or bill of complaint aforesaid, and cannot therefore either admit or deny the same, but respectfully prays this honorable court to require of the said George J. F. Clarke due proof thereof, and of all the matters and things in the said petition or bill of complaint thereof alleged and set forth, as they are therein stated, according to law and the usages of courts of equity.

And this respondent further avers, that if any such grant of land was made by the said Don Jose Coppinger, acting governor as aforesaid, to the said George J. F. Clarke, as is mentioned, set forth, and described, in the said petition or bill of complaint, it was made contrary to, and in violation of the laws, ordinances, and royal regulations of the Spanish Government, which were in force in the province of East Florida aforesaid, in which said province the lands aforesaid are situated, providing for the granting of lands in said provinces, all of which will more fully appear by reference to the said laws, ordinances, and royal regulations, which this respondent prays leave to introduce and read on the hearing of this cause. And further, if any such grant as aforesaid was made in manner and form aforesaid, it was made without any authority on the part of the said Governor Coppinger to make it, and that it was never approved by the King of Spain, and that it was and is wholly null and void.

And this respondent admits that the said George J. F. Clarke filed his claim before the Board of Commissioners in the said petition or bill of complaint mentioned, and that said Board of Commissioners rejected the same, as will more fully appear by reference to a copy of their report thereon, which is herewith filed, and made a part of this answer, as exhibit A. But this respondent denies that under the usages, customs, laws, and ordinances of the King of Spain, the said George J. F. Clarke is entitled to, and vested with, a full and complete title in fee simple (or any other title whatever) to said lands, but that said supposed grant was and is entirely null and void as aforesaid; and that the said United States are not in any manner bound to recognize and confirm it to the said George J. F. Clarke; and this respondent further says that if any such grant of land was ever made by the said Don Jose Coppinger to the said George J. F. Clarke, as is above mentioned and described, it was made in consequence of the representations of the said George J. F. Clarke to the said Don Jose Coppinger; that he, the said George J. F. Clarke, having noticed the scarcity of lumber in said province, and particularly at the town of Fernandina, in said province, which (he, the said George J. F. Clarke, alleged to the said Don Jose Coppinger,) in consequence of the scantiness of this indispensable material had but half of the population which it ought to have had; and that he, the said George J. F. Clarke, induced by the general advantages that would result from mills worked by animals over those worked by water, wind, and fire, because, as he alleged, they are less expensive and more secure, and adapted to any station, he, the said George J. F. Clarke, had established one at said town of Fernandina of his own invention and workmanship, with which four horses sawed eight lines at a time, at the rate of two thousand superficial feet per day, as will more fully appear by reference to the petition of the said George J. F. Clarke, preferred to the said Don Jose Coppinger, praying the said grant of lands, which said petition accompanies the said supposed grant, and forms a part of exhibit No. 1, in said petition or bill of complaint mentioned; whereas the said respondent says that, in truth and in fact, the said representations so made as aforesaid by the said George J. F. Clarke to the said Don Jose Coppinger, for the purpose of obtaining the said grant as aforesaid, were mere pretence, and that the said mill, if any such was ever built, was a mere temporary and valueless establishment, and totally unfit for the sawing of lumber in the manner represented by the said George J. F. Clarke to the said Don Jose Coppinger for the purposes aforesaid.

And this respondent further saith that the right and title to said lands were vested in the Florida tribes of Indians, commonly called the Seminole Indians, at the time when the said grant is alleged to have been made as aforesaid; and that the said Indians then held and occupied the same in their usual and customary manner, as their circumstances required, and that their right and title to the said lands were never extinguished till the eighteenth day of September, in the year of our Lord one thousand eight hundred and twenty three, on which day a certain talk was held at a place called Moultrie, in East Florida aforesaid, by and between William P. Duval, James Gadsden, and Bernardo Segui, commissioners for and on behalf of the same United States, and certain chiefs and warriors of the said Florida tribes of Indians on the part and behalf of those tribes of Indians, at which said talk a treaty was made by and between the same United States and the said Florida tribes of Indians, by the first article of which the said chiefs and warriors, for themselves and their tribes, in consideration of the promises and stipulations

thereinafter mentioned, did cede or relinquish all claim or title which they had to the whole Territory of Florida, with the exception of such district of country as should therein be allotted to them; and this respondent saith that the aforesaid tract of land was embraced in, and formed a part of, the lands ceded to the same United States by virtue of the said treaty, and that it was not included in the district of country thereby allotted to the said Indians, all of which will more fully appear by reference to the said treaty, which this respondent prays leave to introduce and read on the hearing of this cause.

And this respondent submits that, by certain of the laws, ordinances, and royal regulations of the Government of Spain, which were in force in East Florida at the time when the said grant is said to have been made, it was provided that the distribution of lands should be made with equity and without any preference of persons or injury to the Indians, and that it was therein and thereby specially provided and commanded that the lands which might be granted to Spaniards should be without prejudice to the Indians, and that those granted to the injury of the Indians should be restored to their rightful owners, as will more fully appear by reference to the said laws, ordinances, and royal regulations. And this respondent further avers that the said George J. F. Clarke is a native of Florida, and that, at the time when said grant is alleged to have been made, he, the said George J. F. Clarke, was a subject of the King of Spain, and that said grant, if any such was ever made, as is alleged in said petition or bill of complaint, was made to the prejudice and injury of the said Indians, and ought to have been restored to them as the rightful owners thereof.

And this respondent further saith, that at the time when the said grant is said to have been made as aforesaid, it was, and for a long space of time had been, the fixed and settled policy of the Spanish Government to parcel out is colonial domain, with reference to the sole objects of increasing the population of its provinces and of benefitting its indigent subjects, and that, according to that policy, grants for the purpose of speculation were never tolerated by said Government; and that said grant was obtained (if it was obtained at all,) for the purpose of speculation only, and without any view on the part of the said George J. F. Clarke to benefit the said province.

And now, having fully answered all the matters and things in the said petition or bill of complaint alleged, the said attorney prays that the said United States may be hereof discharged, and that their reasonable costs and charges by them in and about the defence of this suit paid, laid out, and expended, may be adjudged and decreed to them, &c.

THOS. DOUGLASS,
United States' Attorney, &c.

EXHIBIT TO ANSWER OF UNITED STATES' ATTORNEY.

Exhibit A,

Annexed to, and made a part of the foregoing answer, to wit: Extract from the report of the register and receiver of the district of East Florida, of December 12, 1827.

"Of George Clarke's claim we shall speak presently." Pamphlet, page 18.

The exception which we have alluded to is a royal title to George J. F. Clarke, who claims to have performed all conditions for the 16,000 acres. George Clarke has, for himself and for others, surveyed this land in different parts of the Territory. To give an idea of this claim by royal title, we

beg leave to copy the preamble of the grant itself, to show the authority under which the governor acted, by his own declaration.

"Don Jose Coppinger, lieutenant colonel of the royal army, civil and military governor pro tem., and chief of the royal domain of this city and its province, &c. Whereas, by a royal order communicated to this Government on the 29th October, 1790, by the captain general of the island of Cuba and the two Floridas, it is provided, among other things, that to foreigners who, of their free will, present themselves to swear allegiance to our sovereign, there will be granted to them lands gratis in proportion to the workers each person may have; and whereas Don George Clarke, inhabitant of the town of Fernandina, has presented himself, manifesting that he has constructed from his own ingenuity a machine that, with four horses, saws eight lines at one time, cutting two thousand superficial feet of timber in a day, and soliciting in virtue thereof a grant, in absolute property, of five miles square of land for a stock and supply of timber, which is the portion that has been granted for water saw mills," &c.

Now, Governor Coppinger gives this land under the order of 1790. That order restricts the granting of land to foreigners. George J. F. Clarke is described as an inhabitant of Fernandina, and for "head rights," this is for a saw mill, "in proportion to their workers." This says nothing of workers; so much for this royal title. The very preamble of the grant shows the governor's want of power." Page 19.

And afterwards, to wit, on the seventeenth day of May, in the year of our Lord one thousand eight hundred and thirty two, the said George J. F. Clarke, by his said attorney, brought and filed in the clerk's office aforesaid his replication; which is in the words and figures following, to wit:

REPLICATION.

Superior Court for the District of East Florida:

GEORGE J. F. CLARKE, *Complt.*
vs.
THE UNITED STATES, *Defendants.*
} *In Chancery*—16,000 *acres.*

Replication of the above complainant to the answer of the United States, defendants.

This replicant saving and reserving to himself all and all manner of advantage of exception to the manifold insufficiencies of the said answer, for replication thereunto saith, that he will aver and prove his said bill to be certain, true and sufficient in the law to be answered unto, and that the said answer of the said defendant is uncertain, untrue, and insufficient to be replied unto by this replicant, without that, that any other matter or thing whatsoever in the said answer contained, material or effectual in the law to be replied unto, confessed or avoided, traversed or denied, is true; all which matters and things this replicant is and will be ready to aver and prove as this honorable court shall direct, and humbly prays, as in and by his said bill he hath already prayed.

JOS. B. LANCASTER.
Solicitor for Complt.

Documents offered and received in evidence in this case on behalf of the said claimant, to wit:

MEMORIAL OF CLARKE TO SPANISH GOVERNMENT FOR GRANT.

No. 1.

Translation.—Memorial.

To the Governor: Don George Clarke, a native of this province, with due respect, presents himself to your honor, and says that, having noticed the constant scarcity of sawed lumber in this province, and particularly at this town, which, in consequence of the scantiness of this indispensable material, has but half of the population that it ought to have; and induced by the general advantages that may result from mills worked by animals over those worked by water, wind, or fire, because they are less expensive, more secure, and adapted to any station, he has accomplished one at this town of his own invention and workmanship, which, with four horses, saws eight lines at a time, at the rate of two thousand superficial feet per day. Therefore, he prays that your honor will be pleased to grant him a title of property to the quantity of land your honor had thought proper to assign to the water mills for their continual supply, forming a quantity equivalent to a five mile square; which lands he solicits on the western part of the St. John's river, above Black creek, at a place entirely vacant, known by the name of White Spring. He hopes to receive this grant from your honor's kindness, because, by this proof of his industry and labor, he has given to the public an invention that by its expediency, simplicity, and cheapness, offers from this source of lumber the most considerable advantages not only to the royal revenue, but to the public also, by the labor of cutting, use, and commerce.

FERNANDINA, *March* 16, 1816.

P. D. For proof of what I have stated to your honor, I herewith present a certificate of the civil and military commander of this town, *ut supra*.

GEORGE J. F. CLARKE.

GRANT TO CLARKE FOR 16,000 ACRES.

Decree.

ST. AUGUSTINE, *April* 3, 1816.

This Government have granted lands to other individuals, inhabitants of this province, who have solicited them for the cutting of timber and the use of the same for the saw mills or machines that they intend to establish, but with the condition of being without effect until these establishments be made. And whereas Don George Clarke proves, by certificate of the commander of the town of Fernandina, that he has constructed a mill of great utility, that offers advantages to that settlement, which is the duty and interest of Government to promote in compliance with royal orders despatched for that purpose, rewarding the industrious and laborious as an example to encourage other inhabitants, and procure the increase of invention, it is granted to the aforesaid Don George Clarke, the five miles square of land that he solicits, of which a title shall be issued comprehending the place, and under the boundaries set forth in this petition, without injury to a third person.

COPPINGER.

ROYAL TITLE TO CLARKE FOR 16,000 ACRES.

No. 2.

Translation.

Title of property of five miles square of land to Don George Clarke.

Don Jose Coppinger, lieutenant colonel of the royal army, civil and military governor pro tempore, and chief of the royal domain of this city and its province, &c.: Whereas, by a royal order communicated to this Government, on the 29th October, 1790, by the captain general of the island of Cuba and the two Floridas, it is provided, among other things, that, to foreigners who of their free will present themselves to swear allegiance to our sovereign, there be granted to them lands gratis in proportion to the workers that each family may have; and whereas Don George Clarke, inhabitant of the town of Fernandina, has presented himself, manifesting that he has constructed, from his own ingenuity, a machine that, with four horses, saws eight lines at one time, cutting two thousand superficial feet of timber in a day, and soliciting, in virtue thereof, a grant in absolute property of five miles square of land for a stock and supply of timber, which is the portion that has been granted for water saw mills; and having pointed out a competent tract of the west side of St. John's river, above Black creek, at a place called White Spring, that is vacant, which establishment of said machine has been proved by a certificate of the civil and military commandant of the town of Fernandina: therefore, and in consideration of the advantages arising from such improvements in this said province, and in order that, by rewarding the industrious and ingenious, it may serve as an example and stimulus to other inhabitants, I have found proper, by my decree of the third of the present month, to order the issue of a competent title of property of said five mile square of land, as will appear more fully by the proceedings had on the occasion, and existing in the archives of the present notary. Therefore, I have resolved to grant, as in the name of his Majesty I do grant, to the said George Clarke, the aforementioned five miles square of land for himself, his heirs, and successors, in absolute property; and I do issue, by these presents, a competent title, whereby I separate the royal domain from the right and dominion it had to said lands, and I cede and transfer the same to the said George Clarke, his heirs and successors, to possess them as their own, and to use and enjoy them without any incumbrance or tribute whatever, with all their inlets, outlets, uses, customs, rights, and services, which they have had, have, and by custom or law may have, or in any wise may appertain to them; and at their will, to sell, cede, transfer, and dispose of them at their pleasure. To all which I interpose my authority as I can, and *and* of right ought to do, by virtue of these presents and the sovereign will. Given under my signature, and countersigned by the notary of Government and royal domain in this city of St. Augustine of Florida, on the 6th April, 1816.

JOSE COPPINGER.

By order of his Excellency:

JUAN DE ENTRALGO,
Notary pro tem. of Govt. and Royal Domain.

MEMORIAL FOR, AND ORDER OF SURVEY.

No. 3.

Translation—Memorial.

His Excellency the Governor: Don George Clarke, with due respect to your excellency, prays that you will be pleased to authorize, by your superior decree, Don Andres Burgevin, who is a competent surveyor, to survey the lands that was granted him in property on the 6th April, 1816, on the west side of St. John's river, and at a place called White Spring, that, in the best form and exactness, said lands shall have the equivalent to the square of five miles as mentioned in the said grant, bounding on the north by Buckley creek, on the south by the public road to Picolata, where it meets the river, on the east by said river, and on the west by vacant pine land. This he prays of your excellency's bountiful administration. District of St. Mary's, 29th December, 1818.

GEO. J. F. CLARKE.

Decree.

ST. AUGUSTINE, 11*th January*, 1819.

Granted with the usual formalities, and citation of the bounding neighbors.

COPPINGER.

Notification.

In St. Augustine, on the same day, month, and year, I notified to Don Andres Burgevin the appointment of surveyor made him by the foregoing decree, who thereon saith that he accepted the same, and he did accept it under the necessary oaths, promising to exercise well and truly the functions of his charge to the best of his knowledge and understanding, and signed this; which I attest.

ANDRES BURGEVIN.

JUAN DE ENTRALGO, *Notary of Govt.*

No. 4.

Translation.—Memorial.

MEMORIAL FOR, AND ORDER TO REMOVE A PART OF A SURVEY.

To his excellency THE GOVERNOR:

Don George Clarke, with the greatest respect, represents that your excellency having been pleased to authorize, by your superior decree of the 11th of the present month, Don Andres Burgevin to survey the lands that were granted to him on the 6th April, 1816, and your petitioner having examined the lands in the neighborhood of White Spring, finds that their extension back is in no wise adequate to the expectation and intentions he had formed, nor the purposes for which they were granted to him by Government; and, furthermore, he fears that they will interfere with the lands appertaining to the house of John Forbes and Co.; therefore he prays your

excellency will be pleased to permit that the said surveyor will verify the survey as your excellency has granted, with this only difference that the depth back will be contracted to about one and a half mile, and that the said surveyor will survey to him the balance in the hammocks called Lang's and Cone's, situated on the south of Mizzell's lake, which are vacant. This favor he prays of your excellency's bountiful administration. St. Augustine of Florida, 25th January, 1819.

GEORGE J. F. CLARKE.

Decree.—St. Augustine of Florida, 25th January, 1819. Granted, without injury to a third person. COPPINGER.

[Here follows the annexed three plats and certificates, and numbered one, two, and three.]

No. 1.

Translation.

I, Don Andres Burgevin, an inhabitant of the city of St. Augustine of Florida, and commissioned by the Government to survey the lands of Don Jorge Clarke, do certify that I have surveyed and delineated for the said Jorge Clarke eight thousand acres of land west of the river St. John, the admeasurement beginning at the mouth of Buckley creek below White spring, and following upwards the margin of said river to the point where the public road from Picolata to Alachua crosses the said river in part, of sixteen thousand acres, equal to a five miles square, which were granted to him in absolute property on the 6th day of April, in the year one thousand eight hundred and seventeen. Said tract is conform to the following plat, and to the copy thereof, deposited in the secretary's office of this Government. St. Augustine, 24th February, 1819.

ANDRES BURGEVIN.

Pine Land.

Swamp

Hammock

Red Bay Point

River St. John

8000 Acres.

S 82° E 14.4 chains
cres.
Pine Land
Swamp
White Springs
Hammock
Stake
S 25° W 11.2 chains
Buckhorn creek.

No. 2.

Translation.

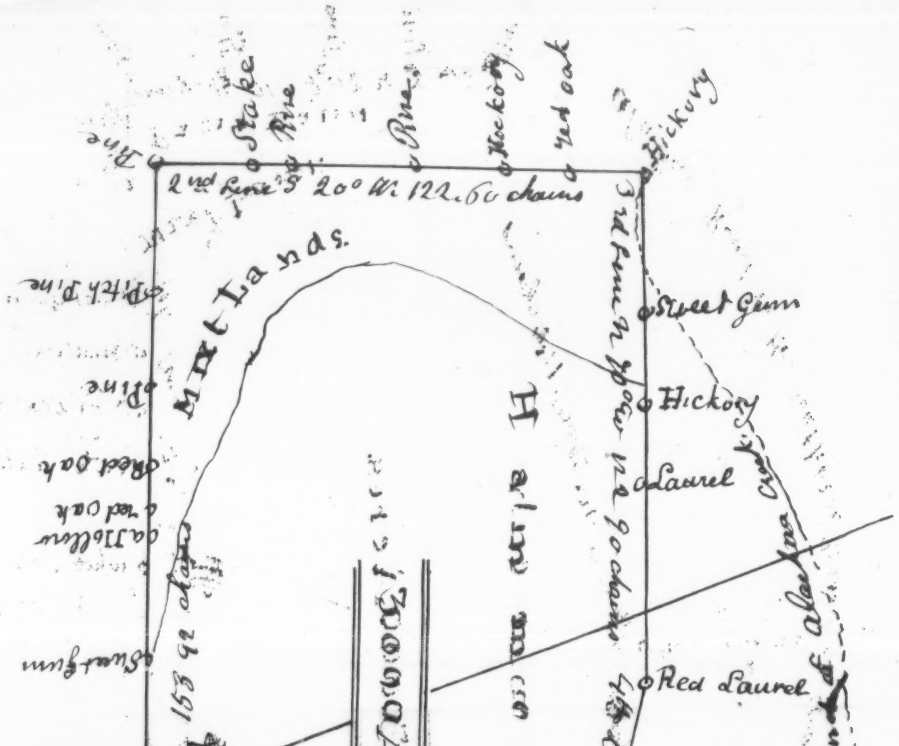
I, Don Andres Burgevin, an inhabitant of the city of St. Augustine of East Florida, and commissioned by the Government to survey the lands of Don Jorge Clarke, do certify that I have surveyed and delineated for Don Jorge Clarke five thousand acres of land, in the place called Lang's hammock, situated south of Mizzell's lagoon, west of the river St. John, in part of a greater quantity which was granted to him by the Government in absolute property on the sixth of April, one thousand eight hundred and sixteen. Said tract is conform to the following plat, and to the copy thereof deposited in the secretary's office of this Government. St. Augustine, 10th March, 1819. ANDRES BURGEVIN.

No. 3.

Translation.

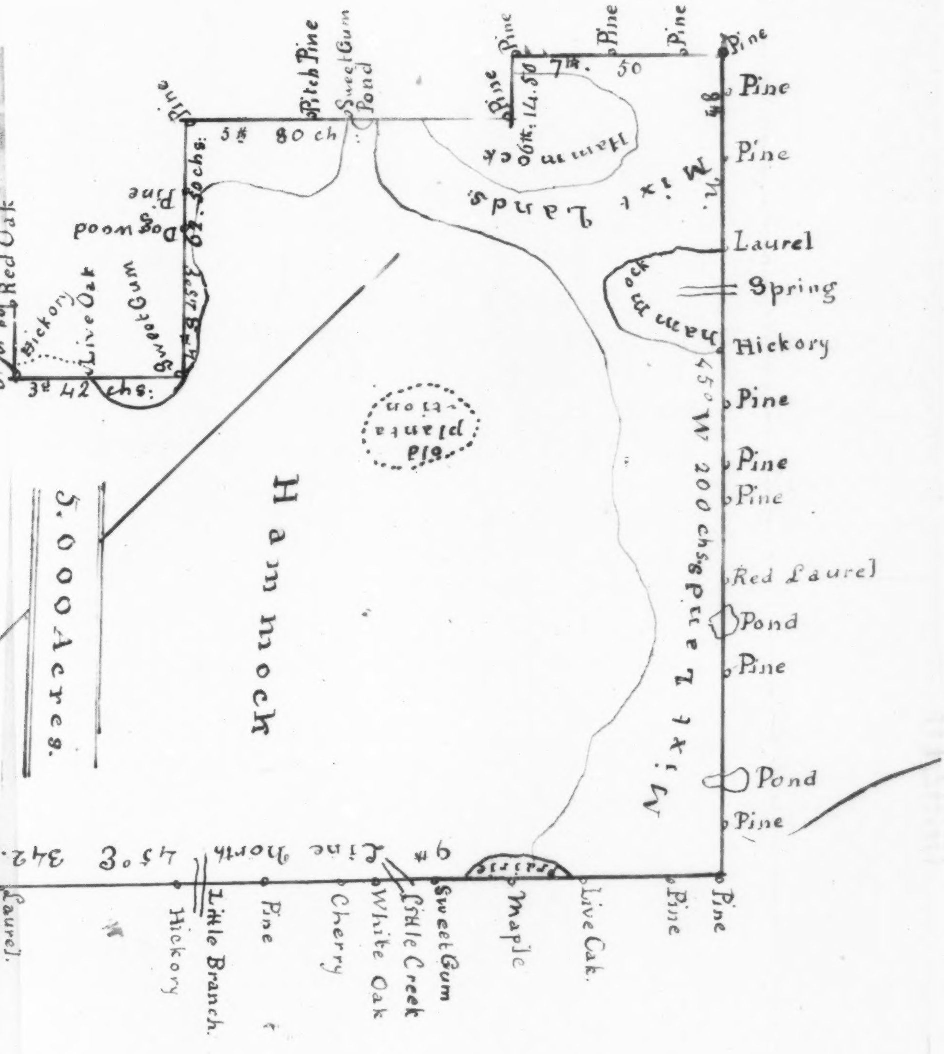
I, Don Andres Burgevin, an inhabitant of St. Augustine of East Florida, and commissioned by the Government at the request of Don Jorge Clarke, to survey his lands, do certify that I have surveyed and delineated to Don Jorge Clarke three thousand acres of land in the place called Cone's hammock, situated south of Mizzell's lagoon, west of the river St. John, said lands being the complement of a greater quantity, which was granted to him by the Government in absolute property on the sixth of April of the year one thousand eight hundred and sixteen. Said tract is conform to the following plat, and to the copy thereof deposited in the secretary's office of the Government. St. Augustine, 12th March, 1819.

ANDRES BURGEVIN.


Stake
Pine
Pine
Hickory
Red oak
2nd Line S 20° W. 122.60 chains
3rd Line N 80° W. 122.60 chains
Pine
Pitch Pine
Pine
Red Oak
Red Oak
Sweet Gum
Sweet Gum
Hickory
Laurel
Red Laurel
Mt Lands.
Hickory Mt.
153 92 chains
Alabama Creek

Red Laurel
4th line N. 58 deg W 144 chains
Pine
Pine
Pine
Pine
Pine
Stake
Sweet Gum
Mulberry
Dogwood
Water oak
White Oak
Sweet Gum

Hammock
5.000 Acres.
342.71 Chains.
Mixt Land
Maple
Red Oak
Sweet Gum
Stake
Pine
Red Oak
Hickory
Live Oak
Sweetgum
Red Laurel
Laurel
Laurel
Wahoo
Pine
Red Oak
Impenetrable
100chs.
S.45° E.
1st Line S.45° W. 70.70chs.
3d 42
87.81 ac



Pine
Pine
Pine
Pine
Pine
Pine
Pitch Pine
Sweet Gum
Pond
5th 80 ch
6th 14.50
7th 50
Hammock
Mixt Lands
8th N. 45° W 200 chs
Pine
Pine
Laurel
Spring
Hammock
Hickory
Pine
Pine
Pine
Red Laurel
Pond
Pine
Pond
Pine
Mixt Lands
Pine
Pine
Live Oak
Prairie
Maple
Sweet Gum
Little Creek
White Oak
Cherry
Pine
Little Branch
Hickory
Laurel
9th Line North 45° E 342.
Hammock
Old plantation
5,000 Acres
Pine
Dogwood
Sweet Gum
Live Oak
Hickory
Red Oak
3d 42 chs:
4th 37 1/2

The foregoing four documents, and numbered from one to four inclusive, are copies of translations made by the translator and interpreter of this court, from copies furnished and duly certified by the keeper of the public archives for East Florida; and that the foregoing three surveys, and the certificates thereto attached, are truly copied, and taken from the translations of the originals on file in this court, made by the translator and interpreter of this court.

Document offered in evidence in this case on the part of the United States, objected to by counsel for claimant as irrelevant, and objection sustained by the court, but permitted to be placed on file that it may be incorporated in the record in case of appeal, to wit:

Translation.

MEMORIAL OF CLARKE FOR GRANT OF 4,000 ACRES.

To his Excellency THE GOVERNOR:

Don George Clarke, with the greatest submission, appears before your excellency, and states that, by the certificates of Don Francisco Ribera, civil and military commandant and sub-delegate of the royal revenue of the town of Fernandina, and of Don Felipe Roberto Younge, captain of the district of Fernandina, and commandant of the militia of that frontier: also, by the official notes of their lordships, Don Juan Jose de Estrada and Don Sebastian Kindelan, who were governors of this province, which documents your petitioner presents, and solicits that they be returned to him: it is proved that, from the year one thousand eight hundred and twelve until the present time he has been commissioned, for want of an engineer, to superintend the works of fortification of the town of Fernandina, in which he has not only directed the erection of a line of four block-houses, and of one battery, for the defence thereof; but he has also, for the want of laborers who understood it, personally worked, and has kept employed in the said works eight negroes belonging to him for more than one year, and has used therefore a great quantity of timber and other materials without stipend, price, or any gratification whatever, which may have been burdensome to the treasury, as it appears by the accounts which have been liquidated from time to time: Therefore, your petitioner supplicates your excellency to be pleased to grant to him four thousand acres of land, in absolute property, among those which are vacant, and very remote from this city, that is to say: one thousand acres west of the Lake St. George, and at a place called Spring grove, bounding north on Spring creek, and east on the said lake, and on the other sides bounded by vacant lands: another tract of one thousand acres at a place known under the name of the old plantation of MacDougal, in the vicinity of Hillsborough river, its survey commencing east of Turnbull's swamp, at a causeway, and running along the margin of said swamp, north and westwardly, one hundred and eleven chains; and the remaining two thousand acres at a place called the Big Bend of Durbin swamp, north of the point at which the royal road crosses the said swamp, and west of the twenty-mile house: which favor he hopes to receive from the benevolent administration of your excellency. St. Augustine of Florida, on the second of May, one thousand eight hundred and sixteen.

JORGE J. F. CLARKE.

GRANT TO CLARKE OF 4,000 ACRES.

Decree.—St. Augustine of Florida, 3d May, 1816. The services of the petitioner being well known, and in conformity of the sovereign's will, who requires that his faithful and loyal subjects be rewarded for those which they have rendered, I grant to him, without prejudice of a third party, the lands which he solicits in this petition, in absolute property; and, in consequence thereof, let the documents which he presents be returned, and let this expedient be given to him, and in order that it may serve him as a title in form.

COPPINGER.

Testimony of witnesses received in evidence in this cause on the part of the United States, to wit:

No. 1,

Being commission, and testimony taken under the same, duly executed and returned to the clerk's office, as follows, to wit:

COMMISSION TO EXAMINE B. CHAIRES.

Territory of Florida:

In the name, and by the authority of the United States of America, to Romeo Lewis and James G Ringgold, esquires, greeting:

Whereas certain causes are now depending in the superior court for the eastern district of Florida, in which said causes George J. F. Clarke is claimant, and the United States of America defendant; and it being necessary to the investigation of said causes to have the testimony of Benjamin Chaires, know ye, that, confiding in your prudence, ability, and integrity, you are by these presents appointed, and full power and authority are hereby given to you diligently to examine the aforesaid witness upon certain interrogatories to be exhibited to you, as well on the part of the said claimant as on the part of the said defendant, or of either party in said causes, and therefore you are hereby authorized and requested, on a certain day, or on certain days, and at a certain place, or at certain places to be appointed by you for that purpose, to cause the said witness to come before you, and then and there to examine him on the said interrogatories on his corporal oath, or on his solemn affirmation first taken before you, and to take such, his examination, and reduce it to writing on paper, and when you shall have so taken it, to sign the same with your names, and enclose and seal the whole conformably to the instructions hereunto subjoined.

And you are hereby further requested that, before you act in, or be present at, the swearing or solemn affirming, and the examining of the said witness, you do severally make oath or solemn affirmation that, according to the best of your knowledge, you will truly, faithfully, and without partiality, to any or either of the parties in said causes, take the examination and deposition of the witness produced and examined by virtue of this commission upon the interrogatories hereto annexed and produced to you; and that you will not publish or make known to any person whomsoever, except the clerk or clerks who may by you be employed, and sworn to secrecy in the execution of this commission, the contents of any of the depositions

taken by you in this commission named, until publication shall pass by rule or order of the said superior court. And you are hereby further authorized and requested, jointly or seperately, to administer such oath or affirmation to the rest or any of you, and also to administer an oath or solemn affirmation of secrecy to any clerk or clerks whom you may employ to take or transcribe the deposition of any of the witnesses so examined by virtue of these presents, before such clerk or clerks shall be permitted to act in, or be present at, such examination.

SEAL OF THE COURT.

Witness, the honorable Joseph L. Smith, judge of the superior court for the eastern district of Florida. this fifth day of February, in the year one thousand eight hundred and thirty, and in the 54th year of the independence of the United States of America.

GEORGE GIBBS, *Clerk.*

Instructions.

When the testimony is taken, the commissioners are required to sign their names at the bottom of each sheet of the depositions, and of the whole after fixing the several sheets together; then to enclose the whole examination, commission and all, in an envelope, sealed up, and their names written on the outside across the seals, and to endorse the packet on the corner thereof with the names of the parties, and to direct the same to George Gibbs, esquire, C S. C. E. D. F., at St. Augustine, and put it in the post office, or deliver it to the agent or attorney of the party who obtained the commission.

INTERROGATORIES TO B. CHAIRES.

TERRITORY OF FLORIDA, *District of East Florida, Superior Court.*

THE UNITED STATES OF AMERICA, *ats.* GEORGE J. F. CLARKE. } *Petition for* 26,000 *acres of land.*

THE SAME, *ats.* THE SAME, } *Petition for* 15,000 *acres of land.*

THE SAME, *ats.* THE SAME. } *Petition for* 16,000 *acres of land.*

Interrogatories to be provided on behalf of the said United States to Mr. Benjamin Chaires, a witness in the above entitled causes, the answers to which are to be read as evidence therein:

First. Are you acquainted with Mr. George J. F. Clarke, the above named petitioner? If you are, please to state how long you have known him.

Second. Had or had not the said George J. F. Clarke any land to the westward of St. John's river, in the district of country commonly called Alachua, before the 24th day of January, in the year 1818? Please to state all you know or have heard the said George J. F. Clarke say on that subject.

Third. Had you, or had you not, frequent conversations with the said George J. F. Clarke in the year 1821, on the subject of the lands to the westward of the St. John's river, in the said district of country called Alachua? If you had, please to state at what time in said year, and particularly, what he then, or at any other time before that period, after the 24th January, 1818, told you of his intention to procure grants of land in that section of country; and whether he did or did not say that he had no lands there at that time?

Fourth. Did or did not the said George J. F. Clarke, sometime in the year 1821, (or at some other time, and, if at any other time, at what time,) apply to, and obtain money from you, to enable him to procure (what are generally called) Spanish grants in the said Alachua country, and particularly to procure a mill grant there? If he did, please to state particularly what he told you at the time he obtained said money, about his intention to procure grants of land in the section of country above mentioned, or elsewhere in East Florida.

Fifth. If you know of any other matters and things which may be of service to the said United States on the trial of the above-entitled causes, or either of them, please to state them as fully and particularly as though you were specially interrogated thereunto.

THOS. DOUGLASS,
United States' Att'y for East Florida.

CROSS-INTERROGATORIES TO B. CHAIRES.

Cross-interrogatories to same witness.

First. Did you or not accompany George J. F. Clarke and others in an exploring expedition up the St. John's river, towards its head waters, about April 1818, in a boat he fitted out for that purpose?

Second. Did not Clarke, on the same trip, offer to sell you a tract of land at a place called Yallahassee, on the west side of St. John's river, in that part of the country called the Alachua, (you expressing a desire to purchase,) and telling you that he held a grant for the same, which might be located any where on vacant land?

Third. Did you or not, prior to the year 1821, inform said Clarke of some bodies of land below the junction of Flint and Chattahoochie rivers, and offer to purchase if he would remove the location of his mill-grant from St. John's river to that place; and did not said Clarke then tell you he had already removed a moiety of it into Alachua country?

Fourth. Please state particularly the various sums of money by you ever advanced to said Clarke, the times when, places where, and quantities, how much, and all you know about it?

Fifth. When on the voyage above-mentioned, were you not at a place called the White spring? Did not Clarke say, and was it not admitted, that spring was on lands of his, and had been granted to him about two years before, absolutely, as part of a mill grant, he having complied with the condition of building a mill?

Sixth. Had you, at the time of said voyage, or before, heard of a proscribing date in the treaty in relation to land grants? and if not then, or before, at what time subsequently did you first become acquainted with it?

Seventh. State any other matter you may know material to the said Clarke.

JOS. B. LANCASTER,
Atto. for Clarke.

At the execution of the foregoing commission, issued out of the superior court for the eastern district of Florida, the fifth day of February, eighteen hundred and thirty, directed to Romeo Lewis and James G. Ringgold, of Leon county, Middle Florida, empowering them to examine Benjamin Chaires in certain causes depending in said court between George J. F. Clarke, complainant, and the United States, defendant: we, Romeo Lewis and James G. Ringgold, commissioners in the said commission named, having met this thirty-first day of May, eighteen hundred and thirty, in the county aforesaid, pursuant to notice, and taken the oath to the said commission annexed, and Charles Pindar being appointed clerk, and having likewise taken the oath to the said commission annexed, the commissioners proceeded to take the following deposition, to wit:

ANSWERS OF BENJAMIN CHAIRES TO INTERROGATORIES.

Benjamin Chaires, of lawful age, being first duly sworn on the Holy Evangely of Almighty God:

To the first interrogatory, Witness answers that he is acquainted with George J. F. Clarke, the plaintiff in the above entitled causes, and has known him since the winter of 1817 and 1818.

Second. Witness answers that he does not know certainly, whether said Clarke claimed any lands in the district of country called Alachua, prior to the 24th January, 1818.

Third. Witness answers that he does not recollect to have held any converse with the said Clarke upon the subject of lands, in the year 1821, but that, in the year 1818 and 1819, he held frequent conversations with him upon the subject of Spanish grants for lands in the district called Alachua, and elsewhere in the province of East Florida; that said Clarke, in one or more of said conversations, offered to sell lands to witness, situated in Alachua, stating, at the same time, that although the Indians occupied the Alachua country, the Spanish Government would issue grants for lands there; but that, as it was the wish of the Government to cultivate friendly relations with the Indians, such grants were made, would be issued under an injunction of secrecy, as it would offend the Indians were they to hear that the Government was granting away their lands. Witness cannot state positively that the grants then spoken of by him were said by Clarke to have been issued, but the impression made upon the mind of witness at the time was, that the grants spoken of by Clarke for lands in Alachua had not been issued At this time the treaty had not been concluded, at least we at St. Augustine had heard nothing of it. It was, however, generally understood there, as witness believes, that Florida would be ceded to the United States in a short time.

Fourth. Witness answers that, about May, 1818, said Clarke applied to him for the loan of money for the purpose, as he said, of paying Entralgo (the escribano) office fees for grants, and witness loaned him two hundred dollars for that purpose. Witness does not recollect to have heard said Clarke say where the lands were situated which he intended covering with said grants, nor does he recollect that Clarke at any time mentioned to him his intention of obtaining a mill grant in Alachua.

Fifth. Witness states that he does not recollect any thing further which will be of service to the United States on the trial of either of the above entitled causes.

ANSWERS OF B. CHAIRES TO CROSS-INTERROGATORIES.

Answers to cross-interrogatories.

First cross-interrogatory. Witness answers that he did accompany said Clarke on a trip up the St. John's river about April, 1818.

Second. Witness states that he does not recollect or believe that, on that trip, said Clarke spoke to him of having a grant for lands at Yallahassee, or elsewhere in Alachua. Witness recollects that, sometime after they returned, perhaps in the fall of that year, Clarke offered to sell him a tract of land at Yallahassaee, in Alachua country. Witness further states that, while on the said trip up the St. Johns, said Clarke interrogated Tony Proctor, a free negro, in regard to the lands of the Alachua, and particularly in regard to the lands at Yallahassee, and that said Clarke took notes of the information received from said Tony Proctor; and the understanding and belief of witness ever has been that the grants for lands at Yallahassee, and elsewhere in Alachua, was obtained after we had returned from said voyage; and that said Clarke obtained, while on that excursion, such information as enabled him to fix upon, and designate particularly, tracts in that country.

Third. Witness answers that, in the course of some one of the conversations above referred to, he stated to said Clarke that there were valuable lands on the Appalachicola river, and on the Chattahoochy, above the junction of that river with the Flint, within the bounds of Florida, and inquired whether grants could be obtained for lands there: said Clarke seemed to be of opinion that such grants could not be easily obtained. Witness does not recollect that any thing was said upon the subject of the removal of said Clarke's mill grant to Alachua or elsewhere, at that or any other period. Witness further states, that he never did hear (to the best of his recollection) from said Clarke, or any other person, any thing upon the subject of the removal of said mill grant, or any part thereof, from the St. Johns or elsewhere, to the Alachua or elsewhere, until after the appointment of commissioners by the United States to examine and report upon Spanish grants in East Florida.

Fourth. Witness answers, that the sum of two hundred dollars above-mentioned, was the only sum ever advanced by him to said Clarke, which sum said Clarke has since returned to him.

Fifth. Witness answers that, when on the voyage mentioned, he recollects to have been at a spring about half a mile west of the river St. Johns, which Clarke said was on a tract of land belonging to him, and he exhibited to witness a plat of a tract of land situated on the west bank of the St. Johns, between Picolata and the mouth of Black creek, running ten miles with the river, and two miles and a half back from it. The spring above referred to is within the bounds of the beforementioned tract of land: said Clarke at that time informed witness that the beforementioned tract of land had been granted to him, in absolute property, by the Spanish Government, as a consideration for the building a mill, which he, said Clarke, had erected on Amelia island.

Sixth. Witness answers that the time of said voyage was anterior to the date of the treaty: therefore he could have heard nothing concerning it. Witness believes he never heard of the proscribing date in the treaty until it was published, nor does he believe that it was generally known at St. Augustine anterior to that period.

Seventh. Witness answers that he does not recollect any thing more favorable to said Clarke on the trial of either of said causes; and further this deponent saith not.

BEN. CHAIRES.

Sworn to, and subscribed before me, this 31st May, 1830.
TURBUTT R. BELTON, *Jus. Peace.*

The execution of this commission appears by certain schedules to this commission annexed.

ROMEO LEWIS, *Com'r.* [SEAL.]
JAMES G. RINGGOLD, *Com'r.* [SEAL.]

No. 2,

Being the testimony of Antonio Alvarez, offered in evidence in this case on the part of the United States, objected to by counsel for claimant as irrelevant, and objection sustained by the court, but permitted to be placed on file, that it may become a part of the record in case of appeal, to wit:

INTERROGATORIES TO ANTO. ALVAREZ.

DISTRICT OF EAST FLORIDA, *Superior Court.*

THE UNITED STATES, *ads.* GEORGE J. F. CLARKE. } *Claim for* 26,000 *acres.*

THE SAME, *ats.* THE SAME. } *Claim for* 16,000 *acres.*

THE SAME, *ats.* THE SAME. } *Claim for* 4,000 *acres.*

Interrogatories to be propounded to Antonio Alvarez, esquire, a witness to be sworn and examined on behalf of the United States, before Elias B. Gould, esquire, presiding justice of St. John's county.

1st. Did you or not hold some office, or act as clerk in some office, under the Spanish Government of East Florida, which had relation to the granting of the public lands? If you did, when, how long, and what office?

2d. Do you, or do you not, know one George J. F. Clarke? If you do, please to state how long you have known him, and what office or offices (if any) he held under the Government aforesaid; and, particularly, whether all the grants of land made by that Government, in East Florida, to George J. F. Clarke, were, or were not, made to the same George J. F. Clarke?

THO'S DOUGLASS,
U. States' Att'y.

ANSWERS OF ANTO. ALVAREZ.

IN THE SUPERIOR COURT, *District of East Florida.*

THE UNITED STATES, *ads.* GEORGE J. F. CLARKE, } *Claim for* 26,000 *acres.*

THE SAME, *ads.* THE SAME. } *Claim for* 16,000 *acres.*

THE SAME, *ads.* THE SAME. } *Claim for* 4,000 *acres.*

The answers of Antonio Alvarez to the interrogatories propounded to him in the above entitled causes. The said Antonio Alvarez, having been duly sworn—

To the first interrogatory, witness answers, that he held the office of clerk in the office of Government secretary from 1807 till 1821, with two short intervals.

Second. Witness says, that he has known said George J. F. Clarke as long as he had any recollection. He held several offices under the Spanish Government; and, particularly, the offices of surveyor general and judge of the St. Mary's or northern district. All grants of land made to George J. F. Clarke in East Florida, were made to the person to which deponent has reference, and is referred to in this interrogatory.

ANTONIO ALVAREZ.

Sworn and examined before me, the 22d day of May, 1832.

E. B. GOULD,
Presiding Justice, St. John's county.

No. 3,

Being the testimony of John Lee Williams, offered in evidence in this case on the part of the United States, and objected to by counsel for claimant as irrelevant, and objection sustained by the court, but allowed to be placed on file, that it may become a part of the record in case of appeal, to wit:

INTERROGATORIES TO J. L. WILLIAMS.

DISTRICT OF EAST FLORIDA, *Superior Court.*

THE UNITED STATES, *ats.* GEORGE J. F. CLARKE. } *Claim for* 26,000 *acres.*

THE SAME, *ats.* THE SAME. } *Claim for* 16,000 *acres.*

Interrogatories to be propounded to John Lee Williams, esquire, a witness to be sworn and examined on behalf of the United States in the above entitled cause, before Elias B. Gould, esquire, presiding justice of St. John's county.

1st. Are you acquainted with the geography of East Florida?

2d. Do you or not know a swamp in East Florida called Durbin swamp? If you do, please to state where it is situated; how far east of St.

John's river; and how far it is from said Durbin swamp to Turnbull's swamp? and whether or not Turnbull swamp is near the Hillsborough river, and whether the Hillsborough river is or is not east of St. John's river?

THO'S DOUGLASS, *U. S. Att'y.*

ANSWERS OF J. L. WILLIAMS.

SUPERIOR COUT, *District of East Florida:*

THE UNITED STATES, *ads.* GEORGE J. F. CLARKE. } *Claim for* 26,000 *acres.*

THE SAME, *ads.* THE SAME. } *Claim for* 16,000 *acres.*

The answers of John Lee Williams to the interrogatories propounded to him in the above causes; the said Williams being first duly sworn.

To the first inetrrogatory. Witness says that he is imperfectly acquainted with the geography of East Florida.

Second. Witness knows the said Durbin swamp very well. It lies from six and a half to fourteen miles east of St. John's river, and crosses the King's road about twenty miles N. W. of the city of St. Augustine. It is about one hundred miles from Durbin swamp to the north end of Turnbull swamp, on Hillsborough river. This river is east of the St. Johns.

JOHN LEE WILLIAMS.

Sworn to before me, the 23d day of May, 1832.

E. B. GOULD,
Presiding Justice St. Johns county.

And afterwards, before the superior court for the eastern district of Florida, holden at the court-house in the city of St. Augustine, at the term of May, in the year of our Lord one thousand eight hundred and thirty-two, to which term this cause had come by regular continuance, to wit, on Wednesday the fifteenth day of said term, and the twenty-third of said month, the following decree of confirmation was entered of record in this cause, to wit:

DECREE OF CONFIRMATION.

GEORGE J. F. CLARKE, *vs.* THE UNITED STATES OF AMERICA. } *Land claim,* 16,000 *acres.*

Whereas George J. F. Clarke did, in pursuance of the act of Congress of the United States, entitled "An act supplementary to the several acts providing for the settlement and confirmation of private land claims in Florida," and approved 23d day of May, 1828, on the fourth day of April, 1829, file his petition for the confirmation of certain lands therein mentioned, in the clerk's office of the superior court for the eastern district of Florida; and whereas the attorney of the United States for this district did duly appear and answer said petition; and this cause coming on to be heard this day, the said claimant, by his counsel, offered in evidence a copy from the office of the keeper of the public archives of the original grant on which this claim

is founded, to the receiving of which in evidence the said attorney for the United States objected, alleging that the *original* grant *itself* should be produced, and its *execution* proved, before it could be admitted in evidence, and that the original only could be received in evidence; which objection was overruled by the court, and the copies from the office of the keeper of the public archives, certified according to law, was ordered to be received in evidence; and the court further ordered that, though by the express statute of this Territory, copies are to be received in evidence, yet, in cases where either the claimant or the United States shall suggest that the *original* in the office of the keeper of the public archives is deemed necessary to be produced in court, on motion therefor, a subpœna will be issued by order of the court to the said keeper to appear and produce the said original in court for due examination there; and such proceedings having been had herein, as that this claim was submitted to the court for its decree thereon, and the said court having examined the claim of the said petitioner, and the answer of the attorney of the United States, together with the exhibits and testimony filed herein, and having maturely considered the same, doth *order*, *adjudge*, and *decree*, that this claim is *valid*, and that, in accordance with the laws and customs of Spain, and under and by virtue of the late "treaty of amity, settlement, and limits, between the United States of America and the King of Spain," ratified by the President of the United States on the 22d February, 1821, and under and by virtue of the laws of nations and of the United States, it is hereby confirmed, adjudged, and decreed unto the said claimant, to the extent, and agreeably to the boundaries as in the grant for the said lands, and the three plats of surveys thereof made by Don Andrew Burgevin, and dated, the first survey of eight thousand acres, the 24th February, 1817; the second survey of five thousand acres, the 10th March, 1819; and the third survey of three thousand acres, the 12th March, 1819, and filed herein is set forth, to wit: The first survey of eight thousand acres, part and parcel of said sixteen thousand acres, is situated west of the river St. Johns, the admeasurement thereof beginning at the mouth of Buckley creek, below White spring, and following upwards the margin of said river to the point where the public road from Picolata to Alachua crosses the said river, and has the following lines, as set forth in the said survey thereof, to wit: The first line runs from a stake at the mouth of Buckley creek south twenty-five degrees west, one hundred and twelve chains, to a pine; the second line runs from said pine south sixty degrees east one hundred and seventy four chains, to a pine; the third line runs said pine south eighty-two degrees east one hundred and fifty-four chains, to another pine; the fourth line runs from said pine south thirty three degrees east one hundred and seventy-five chains, to another pine; the fifth line runs from said pine south five degrees west one hundred and twenty-three chains, to a pine; the sixth line runs from said pine south fifteen degrees east one hundred and twenty three chains, to another pine; and the seventh line runs from said pine north eighty-five degrees east one hundred and ten chains, to a stake on the Picolata road. The second survey of five thousand acres, another parcel of said sixteen thousand acres, is situated at a place called Lang's hammock, situated south of Mizzell's lagoon, and west of the river St. Johns, and has the following lines, as set forth in the survey thereof, to wit: The line runs south forty-five degrees west one hundred and seventy five chains seventy-one links, to a red oak; the second line runs from said red oak eighteen chains and forty-eight links, to a hickory; the third line runs from said hickory forty-two chains, to

a sweet gum tree; the fourth line runs from said sweet gum tree south forty-five degrees east sixty-two chains and fifty links, to a pine; the fifth line runs from said pine eighty chains, to another pine; the sixth line runs from said pine fourteen chains and fifty links, to another pine; the seventh line runs from said pine fifty chains, to another pine; the eighth line runs from said pine north forty-five degrees west two hundred chains, to another pine; the ninth line runs from said pine north forty five degrees east three hundred and forty-two chains and seventy-one links, to another pine; and the tenth line runs from said last named pine south forty-five degrees east one hundred chains, to the beginning of the first line. The third survey of three thousand acres, another parcel of said tract of sixteen thouand acres, is situated in the place called Cone's hammock, south of Mizzell's lagoon, and west of the river St. Johns, and has the following lines as set forth in the said survey thereof, to wit: The first line begins at a stake, and runs south seventy degrees east one hundred and sixty-three chains and ninety-two links, to a pine; the second line runs from said pine south twenty degrees west one hundred and twenty-two chains sixty links, to a hickory; the third line runs from said hickory north seventy degress west one hundred and twenty-two chains and fifty links, to a red laurel; the fourth line runs from said laurel north fifty-eight degrees west one hundred and forty-four chains, to a pine; and the fifth line runs from said pine north twenty degrees east ninety chains and seventy-one links, to the stake at the beginning of the first line.

And afterwards, before the superior court for the eastern district of Florida, holden at the court-house in the city of St. Augustine, at the term of October, in the year of our Lord one thousand eight hundred and thirty-two, to wit: on Wednesday, the sixth of said month, the following appeal was entered of record in this cause, to wit:

APPEAL.

GEORGE J. F. CLARKE,
vs.
THE UNITED STATES OF AMERICA. } *Land claim*, 16,000 *acres.*

This day came Thomas Douglass, esquire, attorney of the United States for this district, and moved the court that an appeal be granted *be granted* in this cause, on behalf of the said United States, from the decree of this court to the Supreme Court of the United States; which is granted accordingly.

And afterwards, before the superior court for the eastern district of Florida, holden at the court-house in the city of St. Augustine, at the term of May, in the year of our Lord one thousand eight hundred and thirty-three, to wit: on Monday, the eighteenth day of said term, and the tenth day of June, the following entry of record was made in this cause, to wit:

REVIVAL OF APPEAL.

THE UNITED STATES,
ats.
GEORGE J. F. CLARKE. } *Land claim*, 16,000 *acres.*

Now, on this day came Thomas Douglass, esquire, United States' attorney for the district of East Florida, and suggests to the court now here that, since

the granting of the appeal in the above cause to the Supreme Court of the United States, a term of said court has intervened, and that the record herein has not been sent up to the said court: wherefore, the said attorney, on behalf of the same United States, prays that the said appeal may be revived, and the order therefor extended, and a copy of the record in said cause, duly certified, may be sent up to the said Supreme Court before the first day of the next term thereof, to be holden on the second Monday of January next; and that a citation, with notice of said appeal, may be forthwith issued by the clerk of this court to the appellee, and that the same may be served by the marshal of said district upon the said appellee, or his solicitor or agent, and returned to this court within thirty days from the issuing thereof; which is ordered accordingly.

And afterwards, on the eleventh day of June, in the year 1833, a citation of appeal, in pursuance of the above order, was issued in this cause; which citation, and the return of the marshal of this district thereon, are in the words and figures following, towit:

CITATION OF APPEAL.

In the name and by the authority of the United States of America, to George J. F. Clarke, or to his agent, attorney, or solicitor, greeting:

You are hereby cited and admonished that an appeal has been taken on the part of the United States, from the decree of the superior court for East Florida to the Supreme Court of the United States, in a certain claim to sixteen thousand acres of land, wherein you, the said George J. F. Clarke, are claimant, and the said United States respondent; and that the record in said cause will be forwarded to the said Supreme Court, to be placed on the docket of said court, at the next term thereof, to be holden on the second Monday of January next.

Witness, the honorable Robert Raymond Reid, judge of our said [L. S.] superior court, at the court-house in the city of St. Augustine, this eleventh day of June, A. D. 1833."

GEORGE GIBBS, *Clerk.*
Per K. B. GIBBS, *Dep. Cl'k.*

THOS. DOUGLASS,
U. S. Att'y for East Florida.
JOS. B. LANCASTER,
Att'y for Claimant.

"Executed, by delivering a true copy to the within named George J. F. Clarke. June 18th, 1833.

SAMUEL BLAIR, *Marshal.*

SUPERIOR COURT, *District of East Florida, to wit:*

I, Kingsley B. Gibbs, clerk of the said court of the district aforesaid, do hereby certify that the foregoing forty-nine pages and two-thirds contain a full, true, and complete transcript of the record and proceedings had in the case therein named in my charge; and that the three plats of surveys, and certificates thereto attached and made a part of this record, are faithfully taken and copied from the said documents, as offered in evidence in this cause, on file in my office.